

Exhibit 16

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8 of All Those Similarly Situated

9
10 **UNITED STATES DISTRICT COURT**
EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION

11 TAYLOR SMART AND MICHAEL HACKER,
12 Individually and on Behalf of All Those Similarly
Situating,

13 Plaintiffs,

14 vs.

15 NATIONAL COLLEGIATE ATHLETIC
16 ASSOCIATION, an unincorporated association;

17 Defendant.
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No. 2:22-cv-02125 WBS CSK

Hon. William B. Shubb
(assigned to Chief Magistrate Judge Chi Soo
Kim for discovery matters)

**PLAINTIFFS' AMENDED
OBJECTIONS AND ANSWERS TO
DEFENDANT NCAA'S SECOND SET
OF INTERROGATORIES TO
PLAINTIFFS TAYLOR SMART AND
MICHAEL HACKER**

PLAINTIFFS' OBJECTIONS AND ANSWERS TO DEFENDANT'S SECOND SET OF INTERROGATORIES TO PLAINTIFFS

Plaintiffs Taylor Smart and Michael Hacker (together, "*Smart* Plaintiffs" or "Plaintiffs"), individually, and on behalf of all others similarly situated, pursuant to Rule 33 of the Federal Rules of Civil Procedure, by and through undersigned counsel, submit the following amended answers and objections to Defendant NCAA's Second Set of Interrogatories to Plaintiffs. Plaintiffs respond to these Interrogatories to the best of their knowledge at the present time and reserve the right at any time to supplement, amend, correct, or clarify their answers and objections, but undertake no obligation to do so beyond the obligations imposed by the Federal Rules of Civil Procedure, the Local Rules of this Court, and other applicable orders or rules. That the Plaintiffs have objected to or answered an Interrogatory is not and should not be taken as an admission that the Plaintiffs accept or admit the existence of any fact set forth in or assumed by the Interrogatory, or as indication that the Plaintiffs agree with or adopt any characterization or statement within the Interrogatory.

OBJECTIONS TO DEFENDANT'S DEFINITIONS AND INSTRUCTIONS

1. Plaintiffs object to the definition of "You," and "Your," on the grounds that it is overbroad, unduly burdensome, and not proportional to the needs of the case to the extent that it would require Plaintiffs to respond on behalf of persons or entities other than Plaintiffs themselves. Plaintiffs further object to the extent it seeks information outside a Plaintiff's possession, custody, and control. Plaintiffs further object to the use of the term "PERSONS" in all capitals inasmuch as it implies any alternate meaning. Plaintiffs will construe "You" and "Your" to be referring to each Plaintiff individually.

OBJECTIONS AND ANSWERS TO DEFENDANT'S SECOND SET OF INTERROGATORIES
INTERROGATORY NO. 1:

State all facts supporting YOUR claim that YOU would have been hired as a paid assistant coach at the institution at which YOU served in a VOLUNTEER COACHING POSITION if the AT-ISSUE BYLAWS were not in place.

ANSWER: Plaintiffs incorporate their Objections to NCAA's Definitions as if fully set forth herein.

Plaintiffs further object that the Interrogatory is a premature contention interrogatory posed before

1 any depositions have taken place, before any expert discovery has taken place, and while data and
2 other documents continue to be produced. Plaintiffs object on the grounds that the Interrogatory is
3 irrelevant in that it is inconsistent with the Court’s ruling on Defendant’s motion to dismiss. *See* ECF
4 No. 29 at 13 n.5. Plaintiffs further object that the Interrogatory is unduly burdensome and overbroad
5 by calling for “all facts” since all facts have not been uncovered at this stage of the case and it would
6 be impractical for Plaintiffs to write “all facts” that are contained in the tens of thousands of
7 documents produced in the case (and that will be contained in upcoming depositions) in an
8 interrogatory response.

9 Subject to and without waiving these objections, Plaintiffs will provide a summary of their
10 contention: Plaintiffs contend that but for the existence of the bylaws they would have been paid by
11 the NCAA Division I institution that hired them as a volunteer coach and for whom they worked and
12 in the sport that they worked. Those schools and sports are stated in the operative Complaint. *See*
13 ECF No. 1 at ¶¶ 6, 64 (identifying the University of Arkansas from 2018 to 2020 for Taylor Smart); ¶¶
14 7, 70 (identifying the University of California, Davis, from 2019 to 2021 for Michael Hacker).
15 Plaintiffs further point to data produced in the case showing that the other assistant coaches doing a
16 similar amount of work were paid at the time that Plaintiffs performed their work alongside these
17 coaches, and to data produced in the case showing that many schools immediately began paying an
18 additional coach in baseball as soon as the rule changed, often for significant sums of money at
19 schools comparable to the schools that Plaintiffs worked at. Plaintiffs further point to documents
20 already produced by Defendant describing volunteer coaches as performing “integral” work that had
21 great value (e.g., NCAA_SMART-COLON_0145784), and to statements made by head coaches—
22 including the head coach of Arkansas at the time that Plaintiff Smart was a volunteer coach—saying
23 that these coaches would have been paid had the bylaws allowed it. Again, this is just a summary
24 because it is unduly burdensome and overbroad to request “all facts” in an interrogatory answer.
25 Plaintiffs will provide further information at their deposition and will provide further information
26 during expert discovery. The investigation remains ongoing, and Plaintiffs reserve the right to
27 supplement this Answer.

1 **INTERROGATORY NO. 2:**

2 State all facts supporting YOUR claim that all putative class members were injured by the AT-
3 ISSUE BYLAWS.

4 **ANSWER:** Plaintiffs incorporate their Objections to NCAA's Definitions as if fully set forth herein.
5 Plaintiffs further object that the Interrogatory is a premature contention interrogatory posed before
6 any depositions have taken place, before any expert discovery has taken place, and while data and
7 other documents continue to be produced. Plaintiffs further object that the Interrogatory is unduly
8 burdensome and overbroad by calling for "all facts" since all facts have not been uncovered at this
9 stage of the case and it would be impractical and unduly burdensome for Plaintiffs to write "all facts"
10 that are contained in the tens of thousands of documents produced in the case in an interrogatory
11 response.

12 Subject to and without waiving these objections, Plaintiffs will provide a summary of their
13 contention: As the Court recognized in the motion to dismiss (and as the *Law* court held), all putative
14 class members were injured because they were forced to work without pay in a non-competitive
15 market infested with price fixing. Documents produced in the case, including from third parties,
16 support the fact that the deprivation of competition, which led to fixing the compensation at \$0,
17 caused harm to class members. Plaintiffs will be available to provide further information, if necessary,
18 at their deposition and will provide further information during expert discovery. The investigation
19 remains ongoing, and Plaintiffs reserve the right to supplement this Answer.

20 **INTERROGATORY NO. 3:**

21 State whether YOU contend that it is or was anticompetitive for the NCAA to limit the
22 number of paid coaches in Division I baseball and, if so, state all facts supporting YOUR contention.

23 **ANSWER:** Plaintiffs incorporate their Objections to NCAA's Definitions as if fully set forth
24 herein. Plaintiffs further object that the Interrogatory is a premature contention interrogatory posed
25 before any depositions have taken place, before any expert discovery has taken place, and while data
26 and other documents continue to be produced. Plaintiffs also object on relevance grounds because
27 this case is not about the number of coaches but is instead about the fixing of compensation for a
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1 group of coaches that were hired within the existing coaching limits. Plaintiffs further object on the
 2 grounds that the Interrogatory is inconsistent with the Court's ruling on Defendant's motion to
 3 dismiss. *See* ECF No. 29 at 13 n.5. Plaintiffs further object that the Interrogatory is overbroad and
 4 unduly burdensome by calling for "all facts" because all facts have not been uncovered at this stage of
 5 the case and it would be impractical for Plaintiffs to write "all facts" that are contained in the tens of
 6 thousands of documents produced in the case in an interrogatory response.

7 Subject to and without waiving those objections, Plaintiffs state as follows: Plaintiffs reiterate
 8 that this case is not about the number of coaches (paid or unpaid) but is instead about the NCAA and
 9 its members agreeing to fix the compensation of a category of coaches at the anticompetitive rate of
 10 zero through binding rules found in the NCAA's Division I Manual (until the rescission of the rule)
 11 under Articles 11.7.6 (allowing an additional coach termed a "volunteer" coach) and 11.01.6 (defining
 12 a "volunteer" coach and fixing the compensation for that category of coach) and the summary found
 13 at Figure 11-1 (summarizing the artificial compensation limits placed on the "volunteer" coach
 14 position) that the NCAA vigorously enforced. *See, e.g.*, NCAA_SMART-COLON_0000001. Plaintiffs
 15 reserve the right to supplement and identify further anticompetitive rules and procedures as the
 16 investigation continues.

17 **INTERROGATORY NO. 4:**

18 For each of YOU individually, identify on a yearly basis all compensation YOU received from
 19 the institution at which YOU served in a VOLUNTEER COACHING POSITION for work in a
 20 VOLUNTEER COACHING POSITION or in an INSTITUTION-AFFILIATED POSITION, and
 21 state the reason(s) YOU received this compensation.

22 **ANSWER:** Plaintiffs incorporate their Objections to NCAA's Definitions as if fully set forth herein.
 23 Plaintiffs also object that the Interrogatory is overbroad and asks for irrelevant information to the
 24 extent that it seeks information regarding compensation for positions other than the Volunteer
 25 Coaching Position—it is the lack of pay provided for the Volunteer Coaching Position that is at issue
 26 in this case, not other jobs. Plaintiffs further object that the Interrogatory is overbroad to the extent
 27 that it seeks information that is outside the agreed-upon timeframe for discovery in this case.

1 Subject to and without waiving these objections, Plaintiffs state that they were not
 2 compensated for the substantial amount of work that they performed in the Volunteer Coaching
 3 Position; the lack of pay was caused by Defendant's bylaw that prohibited them from receiving
 4 compensation. Absent Defendant's bylaw, Plaintiffs would have received compensation for the
 5 substantial work that they performed in the Volunteer Coaching Position. Plaintiffs reserve the right
 6 to supplement this Answer.

7 **INTERROGATORY NO. 5:**

8 For each of YOU individually, identify on a yearly basis all compensation YOU received for
 9 any sports-related work other than the compensation identified in YOUR response to Interrogatory
 10 No. 4 and state the reason(s) YOU received this compensation.

11 **ANSWER:** Plaintiffs incorporate their Objections to NCAA's Definitions as if fully set forth herein.
 12 Plaintiffs also object that the Interrogatory is overbroad and asks for irrelevant information to the
 13 extent that it seeks information regarding compensation for work performed other than in the
 14 Volunteer Coaching Position—it is the lack of pay provided for the Volunteer Coaching Position that
 15 is at issue in this case, not other jobs. Plaintiffs further object that the Interrogatory is overbroad to
 16 the extent that it seeks information that is outside the agreed-upon timeframe for discovery in this
 17 case. Plaintiffs further object that the Interrogatory is overbroad and vague by calling for "sports-
 18 related work" and would assumedly call for production of information related to their careers as
 19 professional baseball players.

20 Subject to and without waiving these objections, Plaintiffs state as follows and designate this
 21 portion of the answer to this Interrogatory as Confidential pursuant to the Protective Order:

22 **Plaintiff Taylor Smart:** Plaintiff Taylor Smart worked at camps at the University of Arizona
 23 from approximately August 2017 to June 2018 and estimates that he earned approximately \$30,000
 24 from those camps and earned additional money in private lessons during that time period, though the
 25 amount is unknown. During summer 2018, he worked at a team called the Santa Barbara Foresters
 26 and estimates that he earned approximately \$7,000 to \$10,000 that summer, mostly from camps and
 27 lessons. While at the University of Arkansas, he worked and organized camps separate and apart from
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his duties as an assistant baseball coach and estimates that he earned approximately \$75,000 to \$80,000 from those camps from around August 2018 to August 2019, and approximately \$15,000 to \$20,000 from those camps from around August 2019 to the last camp he organized and worked around January 2020. He also gave private lessons separate and apart from his duties as an assistant baseball coach and earned some additional money from those lessons but the amount is unknown. After his time at the University of Arkansas, he estimates that he earned \$15,000 to \$20,000 from private lessons from around summer 2020 to spring 2021, and since then he estimates that he has earned approximately \$5,000 to \$8,000 per year from private lessons.

Plaintiff Michael Hacker: Plaintiff Michael Hacker recalls making approximately \$11,000 to \$12,000 working at Consumnes Community College from 2017 to 2018 as a pitching coach and for field maintenance. While at the University of California-Davis, he worked and organized camps separate and apart from his duties as an assistant baseball coach and estimates that he earned approximately \$3,000 per year working camps. Throughout the relevant time period, he also co-owned and worked at a baseball instruction company and estimates that he earned approximately \$35,000 to \$40,000 per year from it.

The investigation remains ongoing, and Plaintiffs reserve the right to supplement or amend this Answer.

INTERROGATORY NO. 6:

For each of YOU individually, identify all paid sports-related positions to which YOU applied and the compensation for those positions.

ANSWER: Plaintiffs incorporate their Objections to NCAA's Definitions as if fully set forth herein. Plaintiffs also object that the Interrogatory is overbroad and asks for irrelevant information to the extent that it seeks information regarding positions other than the Volunteer Coaching Position—it is the lack of pay provided for the Volunteer Coaching Position that is at issue in this case, not applications for other jobs. Plaintiffs further object that the Interrogatory is overbroad to the extent that it seeks information that is outside the agreed-upon timeframe for discovery in this case. Plaintiffs further object that the Interrogatory is overbroad and vague by calling for "sports-related positions"

1 and would assumedly call for production of information related to their careers as professional
2 baseball players.

3 Subject to and without waiving these objections, Plaintiffs state as follows:

4 **Plaintiff Taylor Smart:** Other than the positions identified in response to Interrogatory 5,
5 *supra*, Plaintiff Taylor Smart recalls applying for scouting positions with the Atlanta Braves, Detroit
6 Tigers, Minnesota Twins, Houston Astros, Miami Marlins, Philadelphia Phillies, and Texas Rangers.
7 He made the final round of interviews for some of these positions, and while he does not remember
8 the exact salary that would have been offered, he estimates that the amount would have been more
9 than \$50,000 and would have included standard benefits. Mr. Smart also had discussions regarding
10 other possible positions but does not believe he formally applied for them.

11 **Plaintiff Michael Hacker:** Other than the positions identified in response to Interrogatory 5,
12 Plaintiff Michael Hacker does not recall applying for other positions.

13 The investigation remains ongoing, and Plaintiffs and reserve the right to supplement this
14 Answer.

15 **INTERROGATORY NO. 7:**

16 For each of YOU individually, identify all paid sports-related positions YOU were offered and
17 the compensation YOU were offered.

18 **ANSWER:** Plaintiffs incorporate their Objections to NCAA's Definitions as if fully set forth herein.
19 Plaintiffs also object that the Interrogatory is overbroad and asks for irrelevant information to the
20 extent that it seeks information regarding positions other than the Volunteer Coaching Position—it is
21 the lack of pay provided for the Volunteer Coaching Position that is at issue in this case, not
22 applications for other jobs. Plaintiffs further object that the Interrogatory is overbroad to the extent
23 that it seeks information that is outside the agreed-upon timeframe for discovery in this case. Plaintiffs
24 further object that the Interrogatory is overbroad and vague by calling for "sports-related work" and
25 would assumedly call for production of information related to their careers as professional baseball
26 players.

1 Subject to and without waiving these objections, Plaintiffs state that they have identified the
2 paid sports-related positions that they were offered and that they worked in when responding to
3 Interrogatory 5, *supra*. The investigation remains ongoing, and Plaintiffs and reserve the right to
4 supplement or amend this Answer.

5 **INTERROGATORY NO. 8:**

6 Identify all of the skills, qualifications, and experience relevant to working as a paid baseball
7 coach at a Division I university.

8 **ANSWER:** Plaintiffs incorporate their Objections to NCAA's Definitions as if fully set forth herein.

9 Plaintiffs also object that the Interrogatory is overbroad and unduly burdensome to the extent that it
10 seeks information regarding "*all*" of the relevant skills, qualifications, and experience. Plaintiffs further
11 object that the Interrogatory is overbroad and unduly burdensome to the extent that it seeks
12 information that is not within their custody or control, and that would be better accessed by
13 Defendant and its members.

14 Subject to and without waiving these objections, Plaintiffs state that they had the skills,
15 qualifications, and experience relevant to working as a paid baseball coach at a Division I university,
16 that they were hired by Division I universities to work as baseball coaches, and they provided services
17 of the type that would have been paid but for Defendant's illegal bylaw that prevented them from
18 being paid. Some of those skills include their status as former college and professional baseball players
19 who had previously studied under some of the top baseball coaches in the country, which allowed
20 them to gain highly valuable knowledge of the intricacies of coaching high-level college baseball
21 players, whether that be knowledge of, in the case of Mr. Smart, advanced baserunning, hitting,
22 fielding and other position-player skills, or knowledge of, in the case of Mr. Hacker, developing and
23 refining advanced pitching skills, along with their work ethic, which allowed them to work the high
24 number of hours that are demanded of Division I baseball coaches. The investigation remains
25 ongoing, and Plaintiffs and reserve the right to supplement this Answer.

1 **INTERROGATORY NO. 9:**

2 For each of YOU individually, identify all sports-related work available to individuals with the
3 skills, qualifications, and experience identified in YOUR response to Interrogatory No. 8.

4 **ANSWER:** Plaintiffs incorporate their Objections to NCAA's Definitions as if fully set forth herein.
5 Plaintiffs also object that the Interrogatory is unduly burdensome and overbroad to the extent that it
6 seeks information regarding "*all*" of the sports-related work available anywhere in the entire world.
7 Plaintiff also objects to the phrase "sports-related" as being vague, undefined, and overbroad,
8 therefore causing the Interrogatory to seek irrelevant information. For instance, a hot dog vendor at a
9 ballgame could be considered "sports-related work" but has no bearing on the claims or defenses in
10 this case. Plaintiffs further object that the Interrogatory is speculative and overbroad to the extent that
11 it seeks information that is not within their custody or control, and that would be better accessed by
12 Defendant and its members. Plaintiff further objects to the extent that the Interrogatory calls for
13 premature expert discovery. Plaintiffs also object that the Interrogatory is inconsistent with the
14 Court's motion-to-dismiss order.

15 Through meeting and conferring, Defendant amended this interrogatory to request
16 identification of "other sports-related positions for which that plaintiff is qualified." Plaintiffs
17 maintain their objections to this interrogatory, which were identified in the prior paragraph. Indeed,
18 Plaintiffs are not experts in determining what qualifications are needed to perform a particular job that
19 may or may not even exist for unknown third parties other than the jobs that they actually served in
20 or applied for, which have already been identified, so the revised interrogatory still calls for premature
21 expert testimony and still calls for information that is outside Plaintiffs' control. Plaintiffs also object
22 to the phrase "sports-related" as being vague, undefined, and overbroad, therefore further causing the
23 Interrogatory to seek irrelevant information, and it is also still overbroad and not tailored to the needs
24 of the case to the extent that it seeks information regarding any other "sports-related" job that
25 Plaintiffs might possibly be qualified for.

26 Subject to and without waiving those objections, Plaintiffs state that they were and are
27 qualified to work as paid Division-I baseball coaches. They also state that they were qualified to give
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1 private lessons to youths, to coach youths, and to work as baseball coaches at other levels of
 2 competition that were inferior to Division-I and that required less coaching skills, though Plaintiffs
 3 specifically deny that these lower levels are reasonable substitutes for coaching in Division I. Plaintiff
 4 Smart also was qualified to work as a baseball scout for Major League Baseball teams, and was
 5 qualified to work for certain coaching positions in professional baseball, but again, Plaintiffs
 6 specifically deny that such jobs are reasonable substitutes for coaching in Division I, because, among
 7 other things, coaching jobs and scouting jobs in professional baseball are quite different jobs than
 8 coaching at the Division I level. The investigation remains ongoing, and Plaintiffs and reserve the
 9 right to supplement this Answer.

10 **INTERROGATORY NO. 10:**

11 State all facts as to why the sports-related work identified in YOUR response to Interrogatory
 12 No. 8 are not reasonable substitutes for a coaching position at a Division I university.

13 **ANSWER:** Plaintiffs incorporate their Objections to NCAA's Definitions as if fully set forth herein.
 14 Plaintiffs also object that the Interrogatory is unduly burdensome and overbroad to the extent that it
 15 seeks information regarding "*all*" the facts available, and that it is a premature contention
 16 interrogatory. Plaintiff also objects to the phrase "sports-related" as being vague, undefined, and
 17 overbroad, therefore causing the Interrogatory to seek irrelevant information. Plaintiffs further object
 18 that the Interrogatory is overbroad to the extent that it seeks information that is not within their
 19 custody or control, and that would be better accessed by Defendant and its members. Plaintiff further
 20 objects to the extent that the Interrogatory calls for premature expert discovery. Plaintiffs also object
 21 that the Interrogatory is inconsistent with the Court's motion-to-dismiss order.

22
 23 DATED: September 17, 2024

24 By: /s/ Garrett R. Broshuis
 25 KOREIN TILLERY, LLC
 26 Stephen M. Tillery (*pro hac vice*)
 27 Steven M. Berezney
 28 Garrett R. Broshuis

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent via email attachment, this 17th day of September, 2024, to all counsel of record.

/s/ Garrett R. Broshuis

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7 Attorneys for Plaintiffs Taylor Smart and
Michael Hacker, Individually and on Behalf
8 of All Those Similarly Situated

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10 **UNITED STATES DISTRICT COURT**
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16 ASSOCIATION, an unincorporated association;

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No. 2:22-cv-02125 WBS CSK

Hon. William B. Shubb
(assigned to Chief Magistrate Judge Chi Soo
Kim for discovery matters)

**VERIFICATION OF TAYLOR SMART
REGARDING AMENDED
OBJECTIONS AND ANSWERS TO
DEFENDANT NCAA'S SECOND SET
OF INTERROGATORIES TO
PLAINTIFFS**

1 I, Taylor Smart, have reviewed the Amended Objections and Answers to Defendant NCAA's
2 Second Set of Interrogatories to Plaintiffs. To the best of my knowledge, and based upon the
3 investigations performed to date, the answers are true and correct.

4
5 Dated: 09/17/2024

Signed: Taylor Smart

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Attorneys for Plaintiffs Taylor Smart and
Michael Hacker, Individually and on Behalf
of All Those Similarly Situated

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION

TAYLOR SMART AND MICHAEL HACKER,
Individually and on Behalf of All Those Similarly
Situating,

Plaintiffs,

vs.

NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION, an unincorporated association;

Defendant.

No. 2:22-cv-02125 WBS CSK

Hon. William B. Shubb
(assigned to Chief Magistrate Judge Chi Soo
Kim for discovery matters)

**VERIFICATION OF MICHAEL
HACKER REGARDING AMENDED
OBJECTIONS AND ANSWERS TO
DEFENDANT NCAA'S SECOND SET
OF INTERROGATORIES TO
PLAINTIFFS**

No. 2:22-cv-02125 WBS CSK

**VERIFICATION OF MICHAEL HACKER REGARDING AMENDED OBJECTIONS AND ANSWERS TO
DEFENDANT NCAA'S SECOND SET OF INTERROGATORIES TO PLAINTIFFS**

1 I, Michael Hacker, have reviewed the Amended Objections and Answers to Defendant
2 NCAA's Second Set of Interrogatories to Plaintiffs. To the best of my knowledge, and based upon
3 the investigations performed to date, the answers are true and correct.

4
5 Dated: 09/19/2024

Signed:  _____